

**IN THE DISTRICT COURT
AT QUEENSTOWN**

**I TE KŌTI-Ā-ROHE
KI TĀHUNA**

**CRI-2022-059-000607
[2022] NZDC 1651**

WORKSAFE NEW ZEALAND
Prosecutor

v

WANAKA BULLOCK BAR 2015 LIMITED
Defendant

Hearing: 30 January 2023
Appearances: V Veikune for the Prosecutor
Defendant appears in Person
Judgment: 30 January 2023

NOTES OF JUDGE R J WALKER ON SENTENCING

[1] This is a prosecution undertaken by WorkSafe New Zealand against Wanaka Bullock Bar 2015 Limited.

[2] The infringement has been admitted and Mr Corbett sought a hearing with the Court today. The infringement alleges that on 13 February 2022 Wanaka Bullock Bar, the defendant, committed an offence, under s 26(3) of the COVID-19 Public Health Response Act 2020 and clause 8(1) of the COVID-19 Public Health Response (Vaccinations) Order 2021, in that the defendant did allow affected persons to carry out work or otherwise conduct an activity when aware that the affected person was not vaccinated.

[3] Again, there was a guilty plea indicated in relation to that charge and a hearing was sought. The matter comes before me today and Mr Corbett appears in person.

[4] I have read the letter on file, dated 10 March 2022, in which liability is admitted in terms of the offence.

[5] The background set out in that letter is that Mr and Mrs Corbett have owned and responsibly operated a hospitality venue in Wanaka since 2015. While Mrs Corbett is fully vaccinated, Mr Corbett is not. He holds strong views against vaccination but, as they say in their correspondence, ultimately they accept that these views do not excuse the behaviour that led to the notice being issued.

[6] They, like so many other people in their industry, have been hit hard by restrictions imposed by various orders under the COVID-19 pandemic. They know they are not the only bar that has been hit hard and they acknowledge that other people in similar predicaments are also struggling. Like many other people in their industry, they saw a dramatic decline in income immediately after the initial nationwide lockdown in March 2020. They are struggling to come back from the hardship that many businesses of a similar nature endured. They indicate in their correspondence that they are currently operating on reduced hours and that they are low on staff and are having difficulty recruiting more staff.

[7] Mrs Corbett is fully vaccinated and was the only one serving customers and working in the bar. Mr Corbett works in the back office and was not customer-facing.

[8] After 26 January 2022 Mr and Mrs Corbett say that Mr Corbett has genuinely attempted to stick to the rules. They are unaware of any COVID-19 cases being linked to their venue and have worked very hard to ensure that is the case. They accept, however, that their actions have constituted the offence but are requesting leniency, particularly in terms of their financial situation and other difficulties that they have endured.

[9] This was a \$12,000 infringement, had it been paid. The maximum fine the Court can levy is \$14,000.

[10] Counsel for the prosecution says that there is no direct precedent that I can apply, but a number of other businesses have been prosecuted and have paid the infringement fee.

[11] In light of all the circumstances - including the fact that Mr and Mrs Corbett have pleaded guilty at an early opportunity, there is no previous offending that I am aware of, and noting in particular the financial pressures they have in relation to their business – I am going to order a fine at the level of \$1,500 and Court costs of \$130.

[12] If the company is not able to pay that off within the usual 28 day timeframe, then application can be made to the Court to pay that fine off by instalments.

Judge R J Walker

District Court Judge | Kaiwhakawā o te Kōti ā-Rohe

Date of authentication | Rā motuhēhēnga: 07/02/2023